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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/582,046

10/31/2006

Gustav Strobel

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BACHMAN & LAPOINTE, P.C.  
900 CHAPEL STREET  
SUITE 1201  
NEW HAVEN, CT 06510

EXAMINER

RODDEN, JOSHUA E

ART UNIT

PAPER NUMBER

3637

MAIL DATE

DELIVERY MODE

03/05/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/582,046	<b>Applicant(s)</b> STROBEL, GUSTAV	
	<b>Examiner</b> Joshua Rodden	<b>Art Unit</b> 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 12-15, 20 and 21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-15, 20 and 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

Claim 1-11, 16-19 and 22 have been cancelled.

#### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 12-15, 20 and 21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 12 recites "wherein each latch is integral with a pin." However, there appears to be NO support for this limitation within the disclosure.

Claim 12 recites "at least some of the latches (6) have a cutout portion which exposes a circumferential surface of the pin." However, there appears to be NO support for this limitation within the disclosure.

Claim 12 recites "having an arcuate inner surface (9) which partially surrounds not more than half of the circumferential surface of the pin (7)." However, there appears to be NO support for this limitation within the disclosure.

3. Claims 12-15, 20 and 21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter

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which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 12 recites "at least some of the latches (6) have a cutout portion which exposes a circumferential surface of the pin." This does not appear to be enabled as the latch has a bottom portion (8) which does not appear to allow the cutout portion (11) of an individual latch (6) to expose a surface of the pin (7), (See Applicants Figures 2, 4 and 5).

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 12-15, 20 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 recites "wherein each latch is integral with a pin." However, what is attempting to be claimed with the term "integral"?

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

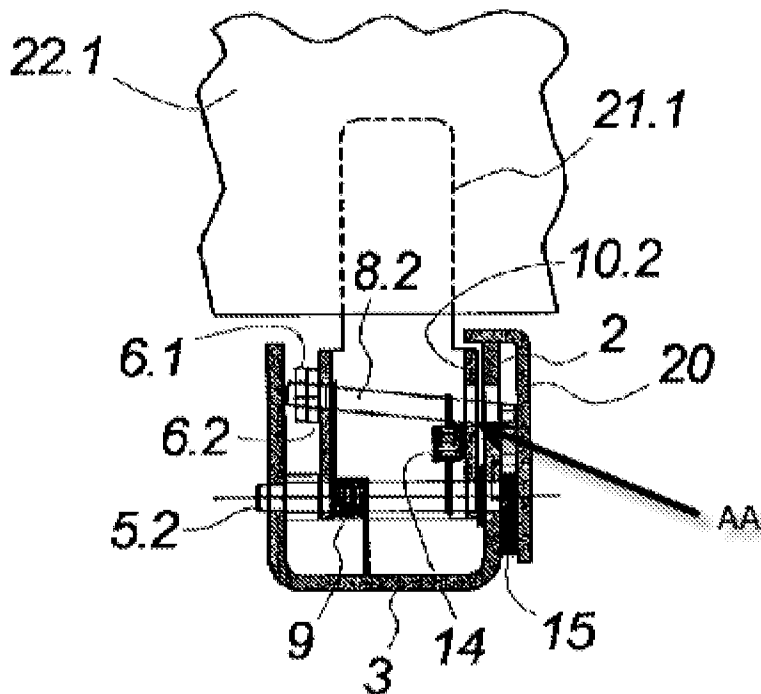
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7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. **Claims 12-15, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 1,340,697 (Weldner) in view of U.S. Patent No. 6,234,743 (Strobel).**

Regarding **Claims 12**, **Weldner** teaches: **Claim 12** – a stacking column comprising two side walls (2) and a plurality of latches (21.1-21.3) arranged between the side walls (2), wherein each latch (21.1-21.3) is integral with a pin (5.1-5.3) which allows for rotation between a rest position into a working position, (Figures 1-4); wherein a cutout portion (area between side walls (10.3) and holes (AA)) exposes a circumferential surface of the pin (5.3), and a pin holder (hole in bottoms of bottom of side wall (10.3)) which surrounds the circumferential surface of the pin (5.3), (Figure 1 and Annotated Figure 3 Below); **Claim 14** – wherein at least two adjacent pins (5.1-5.3) maintain a distance from each other which is greater than the material thickness of the latch in the region of the pin holder (hole in bottoms of bottom of side wall (10.3)), (Figures 1-3); **Claim 15** – wherein the latches (21.1-21.3) are of a single-piece design, (Figures 1-3).

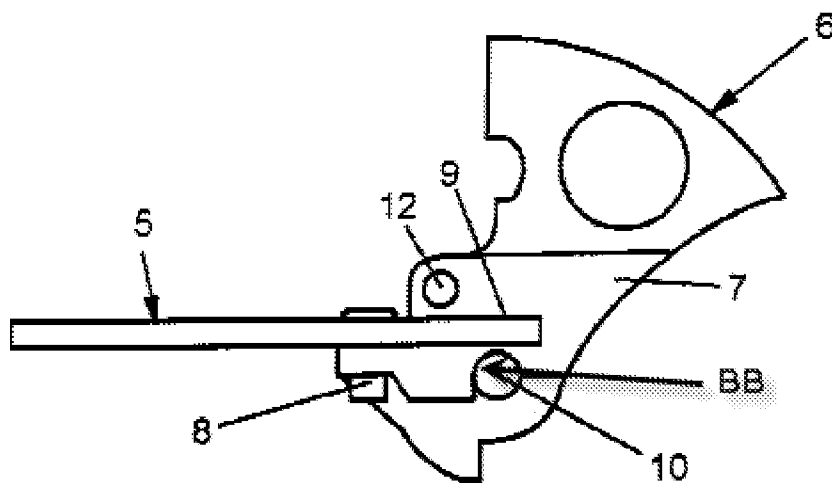


Annotated Figure 3 (Weldner)

**Weldner** does not teach the pin holder having an arcuate inner surface which only partially surrounds not more than half of the circumferential surface of the pin in an arcuately curved manner (**Claim 12**); and wherein at least two pins maintain a distance from each other which is greater than and substantially the same as a material thickness of the latch in the region of the pin holder (**Claim 14**). However, **Strobel** teaches: **Claim 12** - a stacking column comprising two side walls (2 and 3), a plurality of latches (4) arranged between the side walls (2 and 3), wherein each latch (4) is integral with a pin (11.1 and 11.2) which allows for rotation of the latches (4) between a rest position and a working position (See the "BACKGROUND OF THE INVENTION" section of the specification), (Figures 1-3); wherein the bottom portion of the latch has hole (10) for engaging the pin (11.1 and 11.2) and additionally has an arcuate surface (BB) which

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only partially surrounds not more than half of the circumferential surface of the pin (11.1 and 11.2), (Figures 1-4 and Annotated Figure 4 Below); **Claim 14** – wherein at least two pins (11.1 and 11.2) maintain a distance from each other which is greater than and substantially the same as a material thickness of the latch (4) in the region of the pin holder (10 and BB), (Figure 1 and Annotated Figure 4 below). Therefore, it would have been obvious to one of ordinary skill in the art to modify the bottom portion of the latches of **Weldner** to have the pin holder having an additional arcuate inner surface which only partially surrounds not more than half of the circumferential surface of the pin in an arcuately curved manner (**Claim 12**) and wherein at least two pins maintain a distance from each other which is greater than and substantially the same as a material thickness of the latch in the region of the pin holder (**Claim 14**) as taught by **Strobel** for the purposes of having latches which more efficiently contact and rotate about their corresponding pins and for having latches which can be located closer to one another for holding smaller objects.



Annotated Figure 4 (Strobel)

Regarding **Claims 13, 20 and 21, Weldner as modified by Strobel** teaches the stacking column as described above, in addition to **Weldner** teaching: **Claim 13** - wherein the latches (21.1-21.3) are assigned a locking device (6.1-6.3, 8.1-8.3, 12.1-12.4 and 13.1-13.4) which fixes at least some of the latches (21.1-21.3) in the working position, (Figures 1-4); **Claim 20** – wherein a stop lug (10.2) projects from the upper part of the cutout (AA) to stop part of the locking device (8.2) from leaving the cutout (AA), (Annotated Figure 3 Above); **Claim 21** – wherein the locking device (8.2) moves (up and down) in the cutout (upper and lower portions of hole (AA)) by means of a small rail (8.2), (Figure 4 and Annotated Figure 3 Above).

### ***Response to Arguments***

9. Applicant's arguments with respect to claims 12-15, 20 and 21 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within



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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Josh Rodden whose telephone number is (571) 270-5222. The examiner can normally be reached on M-Th 7am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darnell Jayne can be reached on (571) 272-7723. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

/Michael Safavi/  
Primary Examiner, Art Unit 3637

\*

/Joshua Rodden/  
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